

Toronto



Fall 2021

Inaugural Edition

Vancouver



ACEDS is a global association serving the legal professional community, creating a space for collaboration, exchange of ideas and offering professional development opportunities. As of 2020, the ACEDS community has expanded into Canada with two chapters!

MESSAGE FROM THE CHAPTERS

I am honoured to be the first president of the ACEDS Vancouver Chapter along with a stellar Board of Directors. ACEDS brought the E-Discovery profession to the forefront in the U.S., and will do the same in Canada, by providing members with premier educational and networking events.

My goal as president, is to grow the E-Discovery community in western Canada by demonstrating the value that ACEDS brings to its members and the legal profession. E-Discovery training has been lacking in Canada, and now, through ACEDS, we can change that to enable legal professionals to grow their skill sets and knowledge to take on the technological changes of the current and future E-Discovery landscape.

The COVID-19 pandemic has moved technology to the forefront of everyone's lives, and with it, the knowledge that the E-Discovery landscape will be forever changed in that new and more complex sources of information need to be accessed to gather relevant evidence. The need for E-Discovery professionals will only grow as law firms and corporations struggle to deal with these challenging sources and those coming soon such as blockchain. In turn, professionals will require the knowledge to deal with these sources that only ACEDS can provide.

As we look to the future, I am excited about what we will do as a chapter to increase E-Discovery knowledge through in-person and virtual educational events specific to Canada and through social and networking events. I am also looking forward to collaborating with the Toronto chapter to hold joint seminars and, of course, this wonderful newsletter that will make the vast nation of Canada so much smaller and more connected. This is only the start of what we can do to strengthen and grow Canadian E-Discovery knowledge.

I encourage members to get involved in their chapters by attending events or by volunteering. By coming together, we become stronger and wiser. This is the start of great things to come.

Ann Halkett, President, ACEDS Vancouver



ACEDS

ASSOCIATION OF CERTIFIED
E-DISCOVERY SPECIALISTS

Toronto / Vancouver Canadian Chapters

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- Lauren Fishman, *MT3*
- Veronica MacInnis, *Stikeman Elliott*
- Stephanie Mills, *Cassels*
- Anna Traer, *Rogers Communications Canada Inc.*
- Chris Walker, *KPMG*

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ACEDS Toronto Chapter

Formed in February 2020, the Toronto Chapter was the first Canadian Chapter to join ACEDS. In just over 18 months, the Chapter has built a solid membership base and continues to explore new ways to interact with the community.

ACEDS Toronto Chapter

The ACEDS Toronto Chapter, which serves legal professionals in Toronto and surrounding areas, creates an environment where members can collaborate on and discuss professional development, training, certification, as well as issues in the legal industry impacting legal professionals at home and around the globe.

Among its activities, the Toronto Chapter organizes networking opportunities, professional development events and training sessions, while also participating in local and global conferences and events.

The chapter welcomes E-Discovery, information governance, data privacy and other data management professionals in the Toronto area, including law students, new graduates, young legal professionals, and seasoned legal professionals, and will assist aspiring CEDS earn their certifications.

Carolyn Anger, President of the ACEDS Toronto Chapter, commented that “As a chapter, we will continue to develop, grow, and advance both individually and together. I’m excited to be part of the Toronto chapter and the many events our Chapter will hold.”

Membership

Membership is the foundation of a strong Chapter and the ACEDS Toronto Chapter is no exception. Whether you are an existing CEDS certified professional, an aspiring CEDS certified professional or an ACEDS member, the Toronto Chapter is always looking to grow its membership.

If you are already an ACEDS member in Toronto and surrounding areas, be sure to sign-up to the Toronto Chapter to receive alerts regarding upcoming events and sessions.

Chapter Events

In 2020, the Toronto Chapter held virtual events on topics ranging from electronic trials to recent privacy, cyber security and E-Discovery trends across Canada.

In 2021, events covered topics ranging from bending the continuum of the EDRM timeline, challenges with the forensic collection of collaborative platforms, the future of training technologically competent lawyers and discovery using Microsoft 365.

The Toronto Chapter is looking forward to connecting with the community in-person in 2022 to share more educational and social events.

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ACEDS Vancouver Chapter

Formed in August 2020, the ACEDS Vancouver Chapter was the second Canadian chapter to join ACEDS to enhance the E-Discovery community in Vancouver and beyond through various education and networking opportunities.

ACEDS Vancouver Chapter

“ACEDS is the premier organization for E-Discovery education. We are incredibly pleased to have a chapter in Vancouver to further grow the E-Discovery community locally and in Canada through premier education and networking events,” said Vancouver Chapter President, Ann Halkett. “I have always been a firm believer in education as it promotes equality and opens doors which would otherwise remain closed. ACEDS is an organization that can open those doors for individuals,” she added.

The goal of the Vancouver Chapter is to increase E-Discovery knowledge and to demonstrate the value of E-Discovery education to its members and the legal community in general by offering education and training sessions on E-Discovery, information governance, cyber security, and related topics that members want to know more about.

Membership

The Vancouver Chapter has members throughout western Canada and as far away as Regina, Saskatchewan. Members are lawyers, paralegals and information technology professionals, with varying degrees of knowledge and skill. We believe that diversity and inclusion make us stronger.

If you are an ACEDS member in western Canada, please join us. Members are encouraged to provide input regarding the types of events they would like to see. The Vancouver Chapter intends on continuing to offer events virtually as the pandemic has shown us all that distance is only a concept. For more information, please email us at vancouver@aceds.org

Chapter Events

Our inaugural event was held in September 2020 and featured one of Vancouver’s most prominent litigators, Andrew Nathanson of Fasken to discuss ‘E-Discovery – A Vancouver Litigator’s Perspective’ and share how challenges of E-Discovery impact his and his client’s experience. Our most recent event, held in June 2021 had our Director at Large, Anatoliy Valsov take us through the judicial treatment of the Sedona Canada Principles, discussing how the Principles interplay with other E-Discovery standards established by the courts in Canada.

Throughout the season there have been a blend of educational events, social events and joint events with the Toronto Chapters. Stay with us as we have more exciting presentations and social events for the rest of 2021 and beyond!

Chapter Board

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Keys to the Machine: Using TAR Masterfully

by Richard Dilgren of Liquid Litigation Management, Inc.



Machine learning offers those of us focused on discovery a unique opportunity: multiply the value of every human hour invested in a review population while simultaneously boosting consistency. Flashy headlines, banners at industry events, and blog posts tout 60%, 70%, and 85% savings in time and money and some of those claims are well-founded. The opportunity, however, comes with a catch: to realize the benefits and avoid wasting time, effort, and money, machine learning requires us to invest energy earlier in the process to aim this value multiplying technology in the right direction.

This article will discuss three interrelated keys to effectively leveraging machine learning:

1. Understand what you are trying to accomplish substantively AND procedurally.
2. Plan to handle your specific dataset.
3. Familiarize yourself with what TAR can accomplish (because it varies by tool).

Understand what you are trying to accomplish.

What you are trying to accomplish with TAR breaks tidily into two subparts: 1) what kind of information you need to find substantively and 2) strategic needs because of your procedural posture.

Considering what you need to find substantively will help you determine whether TAR makes sense and which products will work for you. If you are looking for patterns in financial data pulled from an accounting database, odds are good the machine learning tools built into most discovery platforms are not for you. If you seek correspondence and documentation about a specific product or project, the odds TAR will help improve dramatically.

Also consider your procedural posture. Are you conducting an internal investigation or simply looking to prioritize high-value information?

This use case offers the opportunity to take advantage of some of the more flexible tools in the market. Are you using TAR to eliminate documents from review and facing an aggressive opposing party who challenges the validity of any process you undertake?

If so, be certain the machine learning tool you employ offers rigorous reporting and auditing and is backstopped by someone with the ability to defend the TAR implementation.

Adapt to your dataset.

Data types and information sought change from case to case and practice to practice. Factors as simple as whether email came from Gmail or Outlook and how they were collected can affect your culling options and what text and metadata is available for machine learning to consider. Always assess your data before you implement TAR.

Separate your data into two sets: 1) data likely conducive to machine learning using your selected tool and 2) data you plan to handle separately. The latter category will often consist of multimedia files, database files, spreadsheets, and the like. Most TAR systems will not handle these files well because they contain too little (or too much) text content. After separating your data into these two sets, machine learning may still be tremendously beneficial (or it may not.)

Test the prevalence of relevant documents in your dataset for machine learning by sampling. Some tools are designed and equipped to handle document sets with vanishingly small proportions of relevant data, some are not. Platform providers should be able to provide guidance on this point. If your dataset exhibits a low prevalence rate, some providers may suggest narrowing strategies before you begin TAR.

Familiarize yourself with how your platform works.

Each machine learning and TAR tool works a bit differently, so this point must remain a touch broad. Some systems are designed only to prioritize review; some emphasize rapidly establishing a strong diversity of training examples to jumpstart broad learning. Even tools using the same underlying classification algorithm can produce slightly different results because their training processes are set up differently. Understanding how your tool works (or learning about your options) will help you select a tool and set up a process that maximizes the value of your final product.

Final Thought

Tools these days can accomplish amazing things that enormously multiply the value of human effort. Machine learning tools can score not just by relevance, but by individual issue. The latest tools are self-aware and self-improving; they can literally suggest which documents will most greatly improve the quality of their own learning.

Whether you need to select a TAR toolset for your practice and need to consider prospective uses or want to leverage machine learning on a specific matter, these keys should help frame the choice before you. First, define your needs. Next, plan to address the data you encounter. Finally, align your tool choice with your goals. Regardless of the cases before you or the specific system you select, these keys will help ensure you've pointed a powerful machine in the right direction.

A special thanks to Veronica MacInnis for the invitation to share thoughts on machine learning implementation with your ACEDS chapters

Richard Dilgren is CTO of Liquid Litigation Management, Inc., where he designs machine learning process, consults on implementation, and enjoys discovery platform conception more broadly. Over the years, he's successfully leveraged and defended TAR in some of the decade's largest cases and dissected opposing party uses.



WE WANT TO HEAR FROM YOU

Have you written an article or have information with an educational focus on the topics of E-Discovery? Contact us to share them with the ACEDS Community.



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SUBMIT



ACEDS EXAM GOES CANADIAN!



The CEDS program has been in operation for the last ten years. ACEDS has now launched an exam and training program designed for Canadians.

Topics include Information Governance, Document Review, Legal Project Management and Cross-Border E-Discovery.

Canadian content is developed by E-Discovery professionals from coast to coast. Materials and study groups are led by Canadian CEDS.

"Having the CEDS designation advanced my career, validated my E-Discovery skills and provided me with a competitive advantage".

- Stephanie Mills

Is the ACEDS Certification right for you?

LINK: [Test your E-Discovery IQ](#)



Member Spotlight - Natasha Doucas

Natasha Doucas has worked in E-Discovery since 2006 and prior to that she worked in law firm, government and health care aiding teams with their digital transformation.

Natasha is passionate about finding the best solution and approach for the task at hand. She joined ACEDS Vancouver Chapter in 2020. With an appreciation for systematizing and a desire to get creative, she designed the ACEDS Canada Newsletter and collaborated with both Chapters in the development of publication standards and for the curation of content.

Natasha just recently prepared for and completed the BETA exam which was a 6 hour exam answering scenario-based questions on Canadian E-Discovery law and application of those laws in the realm of the E-Discovery Reference Model (EDRM).

Thank you for your significant contributions to the Community, Natasha!





Technology in the courtroom - Let's Run with it!

by Stephanie Mills of Cassels

During the pandemic people turned to various hobbies and interests to pass the time. Sourdough bread, new pets, and new forms of exercise dominated media pages. The same can be said for the legal industry. New abilities to work from home, Zoom meetings, and electronic methods to deliver legal services blossomed. I also pursued new interests during this time, both personally and professionally - I took up running (which I always believed wasn't for me) and developed my expertise in virtual trials which I've always had a keen interest in.

I would argue that these pursuits share similar characteristics. Preparing and attending trial is a marathon and requires the same endurance you need when running. Both require preparation, foresight, proactivity and stamina. Having the right tools and technology at your disposal will make or break the whole process.

Training Day - Tie Up Those Laces

In the interest of moving justice forward during a time of social distancing, the Ontario courts have promoted remote hearings in most circumstances. While virtual hearings may not be appropriate in some instances (matters dealing with sensitive information, criminal and child protection matters, or unique personal circumstance) the Courts have taken strides in introducing electronic tools to assist the Judiciary in forging ahead. They were strategic in their planning - promoting e-filing, releasing an FTP site for uploading documents, and then introducing CaseLines (an electronic trial presentation software) to house and present documentary evidence.

In B.C., the Court of Appeal has promoted the use of bookmarked PDFs to present documents to the Court. This staged, slow approach was calculated. With running, you don't simply leave your house and run 5K at full steam. It takes time, practice and commitment. This is how the Courts introduced the legal community to using the software and conducting virtual trials. They provided a roadmap, practice directions, and guides in order to ensure Counsel and Judiciary were prepared for the transition to virtual hearings.

As noted, preparing for any marathon requires commitment and training. A runner needs to tie up their running shoes, start to build endurance and meet the road on a consistent basis to learn the route.

With a virtual trial, the same preparation and stamina is required. A Case Manager or Paralegal plays a key role in managing the evidence and navigating within the chosen trial presentation software to retrieve and share the documents. This requires foresight and practice. A Case Manager needs to familiarize themselves with the program - practice locating documents, practice searching text of the documents using a search functionality, and practice using a presentation function so at trial the Case Manager will have complete control over which documents are viewed by the Court. Once the Case Manager become familiar with the platform, the benefits are clearly evident. No more printing multiple copies of all case material resulting



in copious volumes of reproduced documents, creating waste and increase costs. The evidence will be at the fingertips of Court and Counsel. Knowing how the trial presentation software interacts with the video technology will also be invaluable knowledge. The technology used by the Court and being comfortable with all of it will make a Case Manager a seasoned, valuable member of the team.

Running the Race - Pump up the Hype Music

The day of the race is here. You've practiced and trained and are ready to run. Proper equipment is essential to running a good race. Broken in running shoes, comfy gear, playlist, and sunscreen are all needed. Trial equipment is equally important.

The basics require strong internet connectivity, Zoom, and presentation software. A more robust trial requires webcams, microphones, a comprehensive presentation platform, and multiple monitors.

A trial protocol which outlines key parameters on how the trial will proceed is also a useful document.

Finally, the use of a second screen is strongly recommended. Sharing material via Zoom reduces the size of all participants' windows on the screen, which focuses the video on the material and not the participants. Screen sharing via Zoom interferes with the Judge seeing a witness clearly and up-close during the party's examination. With a second screen, one can present the document via the trial software which then keeps the images of the participants on a secondary screen.

This allows for the documentation to be more accessible and arguably more understandable to the Judge. It provides the parties the ability to see the document clearly as clearly as the witness' expressions. Seeing the witness'

expression is drastically reduced by screen sharing. For maximum benefit, three screens is ideal - one for notes, one for Zoom, and one for the presentation software.

In addition, knowing the race route makes it easier for the runner. Similarly, having a map or script circulated to the trial team is paramount to a seamless, efficient trial. A script will identify which documents will be presented at Court, using the trial platform assigned page number or Joint Book Tab.



This further adds to the fluidity of document retrieval, reducing the time spent fumbling with hard copies - locating the binder, the tab, the page of a hard copy document. This page number also provides ease of reference for the Judge within the trial platform and allows them to return to a key document for review when drafting their Judgment.

When Counsel does not know where in the trial software a document lives, they get lost in trying to find their way when attempting to present the document to Court. However slight, it reduces the confidence the Judge may have in that party - it demonstrates being ill prepared. When you have confidence in locating the evidence, it demonstrates competence.

Finish Line - Onto the Next Race

The secret behind any success is teamwork and perseverance. To keep pace, to keep running, having a support system on the sidelines will push you further and increase your distance.

When starting anything new, the community needs champions to lead and support the endeavor. The support of the Bench is paramount to strengthening the virtual trial process.

The B.C. Judicial will be surveying the legal community for feedback to ensure effective changes are made to move the process forward. The responses will act as a guide to how Courts will operate once the pandemic is over.

In Ontario, the convenience and advantage electronic tools provides is immeasurable. Collaboration between the parties before and during the trial will enhance the technology and process, making presentation to the Court seamless and beneficial, and allowing the administration of justice to be made efficiently and effectively. Using technology will be instrumental in achieving this goal if embraced by all. The pandemic created a challenge in the Courts, but a challenge can create change. As supported by Chief Justice Morawetz, it is time "to push forward ... we cannot go backwards." So, let's be ready to run!



Stephanie Mills is a Case Manager in the Advocacy Group at Cassels with over 15 years of eDiscovery and documentary management experience. She oversees all elements of complex litigation with expertise in franchise law, intellectual property law, and class actions. Stephanie marries creative project management with cutting edge technology to achieve efficient and successful resolutions for her clients.

Upcoming Events

Toronto

October - Operationalizing Data Privacy in Today's Landscape
(Speaker: Trena Patton, - Epiq)

November - Caselines and Electronic Hearings
(Speakers: Betty Montoni - Thomson Reuters, Stephanie Mills - Cassels, Gretel Best - Gowling WLG, Clare Mauro - Torys, and Ceyda Tocsoy - Miller Thomson)

Register at:
<https://toronto.aceds.org/events/>

Vancouver

October - Make a Business Case for Embracing Analytics
(Speaker: Tiana Van Dyk - Epiq)

DATE TBA - Litigation Support hiring trends / remuneration
(Speaker: to be confirmed)

Register at:
<https://vancouver.aceds.org/events/>

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